

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
May 12, 2004

ITEM: 8

SUBJECT: San Diego County Water Authority, San Marcos: Administrative Assessment of Civil Liability containing a \$12,000 Mandatory Minimum Penalty against San Diego County Water Authority for violation of effluent limitations established by Regional Board Order No. R9-2001-0096, NPDES No. CAG919002, General Waste Discharge Requirements for Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region, Except for San Diego Bay. The Regional Board will decide on an order accepting payment of the proposed liability and waiver of hearing (Tentative Order No. R9-2004-0100, *Document No. 2*). (*Frank Melbourn*)

PURPOSE: The Regional Board will decide whether to accept the San Diego County Water Authority's signed waiver of public hearing and \$12,000 check in settlement of the allegations in Administrative Civil Liability (ACL) Complaint No. R9-2004-0077 (*Document No. 3*).

PUBLIC NOTICE: A public notice was published in the San Diego Union Tribune on April 9, 2004, and posted on the Regional Board web page on March 23, 2004. Public notice was further provided in the "Notification" section of the April 14, 2004 Regional Board Agenda.

DISCUSSION: The San Diego County Water Authority is solely responsible for the Bradley Park Pipelines 3 & 4 Relocation Project located in the vicinity of Rancho Santa Fe Road and Linda Vista Drive, San Marcos, California. On July 10, 2003, the Regional Board enrolled the San Diego County Water Authority under Order No. R9-2001-0096 (WDID No. 9 000001027) to temporarily discharge groundwater to San Marcos Creek.

On December 31, 2003, the Regional Board received the San Diego County Water Authority's December 2003 monthly monitoring report with the following sample results:

1. Total Nitrogen Instantaneous Maximum result of 2.5 mg/L, 25% greater than the Discharge Specification of 2 mg/L;
2. Manganese Instantaneous Maximum result of 0.091 mg/L, more than 40% greater than the Discharge Specification of 0.05 mg/L.
3. Total Nitrogen Average Monthly Effluent Limitation result of 2.5 mg/L, more than 40% greater than the Discharge Specification of 1 mg/L; and
4. Total Phosphorus Average Monthly Effluent Limitation result of 0.14 mg/L, 40% greater than the Discharge Specification of 0.1 mg/L.

Water Code Section 13385(h)(2) states that a “serious violation” means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more. Total Nitrogen, Total Phosphorus and Manganese are Group I pollutants.

The Manganese Instantaneous Maximum violation, and the Total Nitrogen and Total Phosphorus Average Monthly Effluent Limitation violations satisfy the definition of a “serious violation” as defined by Water Code section 13385(h)(2), because as a Group I pollutant they exceed the effluent limitation by 40 percent or more. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. Therefore under Water Code section 13385(h) the amount of the mandatory minimum penalty that must be assessed is \$9,000 for the three serious violations.

Water Code Section 13385(i)(1) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any period of six consecutive months:

- Violates a waste discharge requirement effluent limitation.
- Fails to file a report pursuant to Water Code § 13260.
- Files an incomplete report pursuant to Water Code § 13260.
- Violates a toxicity discharge limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

The Total Nitrogen Instantaneous Maximum Effluent Limitation violation, supported by the three serious violations results in the assessment of \$3,000.

On March 9, 2004, the Regional Board issued a \$12,000 MMP ACL Complaint No. R9-2004-0077 to the San Diego County Water Authority. Consideration of the factors prescribed in Water Code section 13385(e) based upon information available to the Regional Board supports assessment of civil liability pursuant to Water Code section 13385 in the amount of \$12,000. On March 22, 2004, the Regional Board received a signed waiver of public hearing form and a check for \$12,000 (*Document No. 4*) from the San Diego County Water Authority.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

1. Site location map.
2. Tentative ACL Order No. R9-2004-0100
3. ACL Complaint No. R9-2004-0077
4. Signed Waiver of Public Hearing

RECOMMENDATION: Accept the San Diego County Water Authority's waiver of public hearing and \$12,000 check, and adopt Tentative ACL Order No. R9-2004-0100.